

MDR Tracking Number: M5-04-1991-01

Under the provisions of Section 413.031 of the Texas Workers' Compensation Act, Title 5, Subtitle A of the Texas Labor Code, effective June, 2001 and Commission Rule 133.305 titled Medical Dispute Resolution- General, 133.307 titled Medical Dispute Resolution of a Medical Fee Dispute, and 133.308 titled Medical Dispute Resolution by Independent Review Organizations, the Medical Review Division assigned an IRO to conduct a review of the disputed medical necessity issues between the requestor and the respondent. This dispute was received on 3-5-04.

The IRO reviewed therapeutic exercises, office visits, unlisted study procedure, muscle testing, manual muscle testing, and range of motion measurement on 4-3-03 to 7-10-03.

The Medical Review Division has reviewed the IRO decision and determined that **the requestor did not prevail** on the majority of the medical necessity issues. The IRO concluded that the muscle testing and range of motion measurement on 4-3-03 were medically necessary. The IRO agreed with the previous determination that the therapeutic exercises, office visits, unlisted study procedure, and manual muscle testing were not medically necessary. Consequently, the requestor is not owed a refund of the paid IRO fee.

In accordance with §413.031(e), it is a defense for the carrier if the carrier timely complies with the IRO decision.

This dispute also contained services that were not addressed by the IRO and will be reviewed by the Medical Review Division.

On 6-3-04, the Medical Review Division submitted a Notice to the requestor to submit additional documentation necessary to support the charges and to challenge the reasons the respondent had denied reimbursement within 14 days of the requestor's receipt of the Notice.

The following table identifies the disputed services and Medical Review Division's rationale:

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Max. Allowable Reimbursement)	Reference	Rationale
8-11-03	97546-WH (4 hours)	\$256.00	\$51.20	F	\$51.20 per hour for non-CARF	Rule 133.307(e)(2)(B)	Carrier states they have not received a reconsideration request. Requestor did not submit convincing evidence of carrier receipt of reconsideration request; therefore, no review can be completed. No additional reimbursement recommended.
TOTAL							The requestor is not entitled to

DOS	CPT CODE	Billed	Paid	EOB Denial Code	MARS (Max. Allowable Reimbursement)	Reference	Rationale
							reimbursement.

ORDER

Pursuant to §§402.042, 413.016, 413.031, and 413.019 of the Act, the Medical Review Division hereby ORDERS the respondent to pay for the unpaid medical fees in accordance with the fair and reasonable rate as set forth in Commission Rule 133.1(a)(8) plus all accrued interest due at the time of payment to the requestor within 20 days of receipt of this order. This Order is applicable for date of service 4-3-03 in this dispute.

This Order is hereby issued this 20th day of October 2004.

Dee Z. Torres
Medical Dispute Resolution Officer
Medical Review Division

Enclosure: IRO Decision

MEDICAL REVIEW OF TEXAS
3402 Vanshire Drive **Austin, Texas 78738**
Phone: 512-402-1400 **FAX: 512-402-1012**

NOTICE OF INDEPENDENT REVIEW DETERMINATION

REVISED 10/18/04

TWCC Case Number:	
MDR Tracking Number:	M5-04-1991-01
Name of Patient:	
Name of URA/Payer:	Southeast Health Services
Name of Provider: (ER, Hospital, or Other Facility)	Southeast Health Services
Name of Physician: (Treating or Requesting)	James Syvrud, DC

May 11, 2004

An independent review of the above-referenced case has been completed by a chiropractic doctor. The appropriateness of setting and medical necessity of proposed or rendered services is determined by the application of medical screening criteria published by Texas

Medical Foundation, or by the application of medical screening criteria and protocols formally established by practicing physicians. All available clinical information, the medical necessity guidelines and the special circumstances of said case was considered in making the determination.

The independent review determination and reasons for the determination, including the clinical basis for the determination, is as follows:

See Attached Physician Determination

Medical Review of Texas (MRT) hereby certifies that the reviewing physician is on Texas Workers' Compensation Commission Approved Doctor List (ADL). Additionally, said physician has certified that no known conflicts of interest exist between him and any of the treating physicians or providers or any of the physicians or providers who reviewed the case for determination prior to referral to MRT.

Sincerely,

Michael S. Lifshen, MD
Medical Director

cc: Rosalinda Lopez, Texas Workers Compensation Commission

CLINICAL HISTORY

Patient underwent lumbar spine fusion and received extensive physical medicine treatments after a lifting injury at work on ____.

REQUESTED SERVICE(S)

Therapeutic exercises and office visits from 05/14/03 through 06/11/03.

93799 - unlisted study procedure, 95834 - muscle testing/manual, and 95851 - range of motion measurement/RP, 97750-MT muscle testing; for date of service 04/03/03;

93799 - unlisted study procedure and 95834 - muscle testing/manual for date of service 05/07/03;

93799 - unlisted study procedure for date of service 07/10/03.

DECISION

97750-MT - muscle testing and 95851 - range of motion measurement/RP on 04/03/03 are approved. All other examinations and treatments are denied.

RATIONALE/BASIS FOR DECISION

While discussing when MMI would likely occur, designated doctor Marty Hall, D.C. opined in his 03/20/03 report that the patient would be in need of "a four week transitional aquatic program to land based eight week work hardening program." Based on the patient's extensive surgical procedure, this would be standard of care. However, Dr. Hall did not recommend therapeutic exercises, and there is no documentation in the records submitted that would support the medical necessity of the intervening therapeutic exercises during the time frame between when aquatic therapy ended and work hardening began.

Moreover, if the patient truly needed therapeutic exercises before work hardening began, it is important to note that they were actually performed. The records indicate that during the time that aquatic therapy was being rendered in April and early May, at least two to three units of therapeutic exercises were performed concurrently on each date of service during the dates in question.

The PPE performed before the disputed treatment (05/07/03) and the functional capacity examination performed after the disputed treatment (06/13/03) fail to document that the patient benefited from the care. In fact, the opposite is true since the patient's lumbar extension ROM, right and left lateral flexion ROM and bilateral straight leg raising all decreased.

97750-MT muscle testing and 95851 - range of motion measurement/RP for date of service 04/03/03 are approved since the tests were used to determine the patient's baseline.

However, heart monitoring (93799) for the three DOS in question are denied since no documentation was submitted to warrant their medical necessity based on cardiac insufficiency. Likewise, 95834 - muscle testing/manual on DOS 04/03/03 and 05/07/03 is denied since no documentation was submitted to support the medical necessity of "total body ROM testing including hand."